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Legislative Document

No. 110

H.P. 76

House of Representatives, January 13, 2021

An Act To Clarify Prepayment Requirements in Home Construction Contracts

Received by the Clerk of the House on January 11, 2021. Referred to the Committee on Innovation, Development, Economic Advancement and Business pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative McCREIGHT of Harpswell.
Cosponsored by Senator DAUGHTRY of Cumberland and
Representatives: EVANGELOS of Friendship, PEBWORTH of Blue Hill, TEPLER of
Topsham.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 10 MRSA §1489**, as enacted by PL 1987, c. 574, is amended to read:

3 **§1489. Exemption**

4 Parties to a home construction contract may exempt themselves from the requirements
5 of this chapter only if the contractor specifically informs the homeowner or lessee of ~~his~~
6 the homeowner's or lessee's rights under this chapter and the parties then mutually agree to
7 a contract or change order that does not contain the parts set forth in sections 1487 and
8 1488.

9 Parties to a home construction contract may exempt themselves from the initial down
10 payment limitations set forth in section 1487, subsection 5 only if the following conditions have
11 been met:

12 **1. Limit on amount of initial down payment.** The contractor informs the homeowner
13 or lessee of the homeowner's or lessee's right under section 1487, subsection 5 to pay no
14 more than 1/3 of the contract price in an initial down payment;

15 **2. Waiver of rights.** The homeowner or lessee agrees, in a writing signed by both the
16 homeowner or lessee and the contractor on a separate page, included in the contract, to
17 waive the homeowner's or lessee's rights under section 1487, subsection 5; and

18 **3. Amount due clearly stated.** The signed document under subsection 2 clearly states
19 the amount due as an initial down payment.

20 **SUMMARY**

21 This bill clarifies the requirement that a contractor obtain informed consent from a
22 homeowner or lessee in the event the initial down payment for a construction project is
23 more than 1/3 of the total contract price. The bill requires a contractor to set forth a waiver
24 from the requirement that an initial down payment not exceed 1/3 of the total contract price
25 in writing, on a separate page included in the contract, signed by both the homeowner or
26 lessee and the contractor. The bill also requires that the waiver document clearly state the
27 initial down payment amount due.